



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

Application for Use of State-owned Aquatic Lands

Applicant Name:

County: King

Water Body: Duwamish River

Type of Authorization - Use: Easement – Aerial Fiber Optic Line

Authorization Number: 51-085222

Term: 30 years

Description:

This agreement will allow the use of State-owned aquatic lands for the sole purpose of attaching an aerial fiber optic line to existing power poles. It is located over the Duwamish River, in King County, Washington.

RECEIVED

NOV 02 2009

DNR - SPS

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
PETER GOLDMARK, Commissioner of Public Lands

APPLICATION FOR AUTHORIZATION TO USE STATE-OWNED AQUATIC LANDS

NO WORK CAN BE STARTED ON THE PROJECT AREA UNTIL A USE AUTHORIZATION HAS BEEN GRANTED BY THE DEPARTMENT OF NATURAL RESOURCES

I. SUBMISSION OF APPLICATION

Enclose a **\$25.00 non-refundable application processing fee** with the application. (This fee is not required for local, state, and other government agencies). This application form will be reviewed by the Department of Natural Resources upon receipt at the address given below. Applicants will be notified in writing if the application will be accepted for further review. However, this application may be rejected at any time before signed execution of a use authorization. **APPLICATION MUST BE FILLED OUT IN BLUE OR BLACK PEN**

Please send the completed application form to your region land manager at:

Department of Natural Resources
Shoreline District Aquatics Region
950 Farman Avenue North
Enumclaw, WA 98022-9282

II. APPLICANT INFORMATION

Date of Application: 09/23/09

Authorization to be Issued To (how name is to appear in the lease document): Level 3 Communications, LLC

Applicant's Representative: Michael James

Relationship to Applicant: Outside Plant Manager

Address: 1000 Denny Way, Suite 400	City: Seattle	State: WA	Zip Code: 98109
Telephone: 206-652-5637	Fax: 206-652-5650	E-Mail: Michael.James@level.com	

FOR OFFICIAL USE ONLY

Support staff: Application Fee Received ☒ JARPA Received ☒ Date: 11/6/09
Land Manager: New Application Renewal Application ☐ Land Manager Initials TR
Land Manager Type: (20, 21, 22, 23, 31, 51) Nature Use Code 2202
Land Records: New Application Number 51-085222; Trust 15/20; County 17; AQR Plate No. TS17-071
2202
AQ EASE FIBER
Note 19

II. APPLICANT INFORMATION cont'Department of Revenue Tax *Registration Number (Unified Business Identifier) is **Required:** 47-0807040Which of the following applies to Applicant (**Check One** and **Attach written authority to sign** - bylaws, power of attorney, etc):Corporation ☐
State of Registration:Limited Partnership ☐
State of Registration:General Partnership ☐
State of Registration:Sole Proprietorship ☐Marital Community ☐
Spouse:Government Agency ☐Other ☒ (Please Explain:) Limited Liability Company, registered in DelawareHas the site use been authorized before or is it currently under lease? Yes ☐ Lease Number: 51-023899
No ☐ Don't Know ☒**III. LOCATION**The Body of Water on which the state property
is located:
Duwamish WaterwayCounty in which the state property is
located: KingGovernment Lot:
1 & 6

Section: 10

Township: 23N

Range: 04E

E ☐ or W ☒**Note:** A legal property survey including the legal description and other information about the property is **required** to obtain a use authorization. WA DNR survey requirements are attached to this form. The survey plat will be attached to the lease/easement as Exhibit A. **DO NOT HAVE THIS SURVEY CONDUCTED UNTIL YOU HAVE BEEN NOTIFIED IN WRITING THAT THE APPLICATION HAS BEEN ACCEPTED FOR PROCESSING.**

Physical description of Project Area (For example, Marsh, Tidelat adjacent to the Chehalis River, etc.): River/Stream

Name of Owner(s) of Uplands, Shorelands, and/or Tidelands shoreward and adjacent to the Property: City of Tukwila (ROW)

Address: 11534 East Marginal Way S

City: Tukwila

State: WA

Zip Code: 98168

Phone Number: 206-431-3670

Fax Number

E-mail:

Note: Except for property located within established Harbor Areas, proof of ownership, or authorization to use the adjacent tideland, shoreland, or upland property may be required. If the applicant is the owner of the adjacent land, attach a copy of the deed.

County Parcel No(s). for adjacent properties, upland, and/or adjacent tideland properties: 102304HYDR, 1023049002

IV. USE OF PROPERTY

Describe, in detail, the proposed use of the Property:

Installation of aerial fiber optic line on Seattle City Light Distribution utility poles.

51-023899?

Is or will the Property be subleased to another party? Yes ☐ No ☒

If yes, submit a copy of the sublease agreement.

What are the current and past uses of the site? Bridge/Utilities

Do you have any knowledge of contamination of the site by toxic or hazardous substances, or of past uses or practices that might have lead to contamination by such substances? Yes ☐ No ☒

If so, please explain:

Do you know if any fill material has been placed on the property in question? Yes ☐ No ☒

If yes, please explain:

V. IMPROVEMENTS

Physical improvements are structures placed on the land that cannot be removed without damage to the land. Examples of such structures include: pilings, dolphins, piers, wharves, piling-supported buildings, structures built on fill or concrete foundations, buried pipelines and cables, and support structures for bridges.

What physical improvements currently exist on the site? (Photos may be required.) Bridge

If there are physical improvements currently on the site, who owns them? City of Tukwila

If there are physical improvements currently on the site, describe their condition: Good

Which, if any, of the existing physical improvements will be removed, remodeled, or reconstructed? None

Describe any physical improvements that the applicant is proposing to construct on the site: Aerial fiber optic line over Duwamish Waterway along Seattle City Light Distribution poles.

Has any fill material been placed on the site? Yes ☐ No ☒

If Yes, please describe:

VI. LOCAL, STATE, AND FEDERAL REGULATORY PERMITS Copies of all Government Regulatory Permits, or Permit Waivers Are Required Before Issuance of a DNR Use Authorization. Your project may require all or some of the following.

Please include the following permit applications, permits, or waivers with the application:

JARPA (Joint Aquatic Resource Permit Application) - This one form is used to apply for all of the following individual permits:


1. Section 10 Permit (Required by the US Army Corps of Engineers for any work in or affecting navigable waters, e.g., floats, docks, piers, dredging, pilings, bridges, overhead power lines.)
2. Shoreline Substantial Development, Conditional Use, Variance Permit or Exemption (Issued by Local Government, and is required for work or activity in the 100 year flood plain, or within 200 feet of the Ordinary High Water mark of certain waters; and which included any one of the following: dumping, drilling, dredging, filling, placement or alteration of structures or any activity which substantially interferes with normal public use of the waters.)
3. Hydraulic Project Approval (Required by the Department of Fish and Wildlife if the project includes work that will use, divert, obstruct, or change the natural flow or bed of any fresh or salt water of the state.)
4. Section 404 Permit (Required by the US Army Corps of Engineers if your project will discharge or excavate any dredged or fill material waterward of the Ordinary High Water mark or the Mean Higher High Tide Line in tidal areas.)
5. Section 401 Water Quality Certification (Required by the Department of Ecology if a Section 404 permit is required.)

NPDES (National Pollutant Discharge Elimination System Permit) - Required by the Department of Ecology under delegated authority from the Federal Environmental Protection Agency for projects that include the discharge of fluid on or into surface water.

SEPA (State Environmental Policy Act) Checklist and Environmental Assessments - When you submit a permit application to any agency, if the project is not exempt, the lead agency will ask you to fill out an environmental checklist. Based on checklist answers and the reviewers knowledge of the project site, agency personnel will determine the types of impacts the project may have on the environment. The agency assessments may be the following forms: Determination of Nonsignificance, Determination of Significance, scoping documents, draft or final Environmental Impact Statements (EIS) or others prepared for the purpose of compliance.

Describe any habitat mitigation required by any of the permitting agencies identified above and identify where such mitigation is proposed to occur:

All answers and statements are true and correct to the best of my knowledge.

Applicant Name (please print): Level 3 Communications, LLC	Title:
Applicant or Authorized Signature:  , SVP of Level 3 Communications, LLC	Date:

STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES REQUIREMENTS FOR RECORDS OF SURVEY FOR LEASES AND EASEMENTS

Records of Survey are required for easements and leases granted by the department for:

- • County roads
- • Highways
- • Easements across high value lands
- • Easements across transition lands
- Utilities
- • Upland leases
- Communication sites
- Other grants as determined by the department based upon site specific considerations
- Drainage or irrigation easements
- Railroads
- Aquatic land uses: exemptions are provided for recreational docks and mooring buoys per RCW 79.105.430 and for those permits issued as a Right of Entry

The applicant is responsible for:

- All costs and work associated with creating, submitting, revising and recording the Record of Survey
- Submitting a preliminary Record of Survey for review and approval by the department prior to approval of the agreement.
- Recording the final Record of Survey with the county auditor's office.
- Submitting a digital copy in AutoCAD.DWG or DXF (drawing exchange format) of the final survey.
- Submitting two full size copies and one 8 ½ X 11" copy and of the recorded survey including the auditor's recording information to the department.

A Record of Survey must:

1. **Be produced by a licensed surveyor.**
2. **Meet the requirements of Title 58 RCW and Chapter 332-130 WAC.**
3. Include the name of the applicant, the purpose of the easement or lease and the DNR easement or lease number.
4. Clearly show easement or lease boundaries with distances and directions of all boundary lines.
5. Show the easement or lease area to an accuracy of (\pm) 0.5% of the total area or (\pm) 10 square feet, whichever is greater.
6. **(Not required for aquatic lands lease across the bed of Puget Sound or the Pacific Ocean)** Indicate the acreage encompassed by the lease or easement within each quarter-quarter section or government lot.
7. Show distances and directions from two or more controlling corners of a recorded subdivision, recorded survey or government survey (GLO) corners.
8. Be related by meridian and coordinate to the Washington Coordinate System NAD'83(1991) by closed ties to NGS Control monuments, or the extension thereof. The designation of the control stations used shall appear on the plat.
9. Include a narrative legal description describing the servient estate (grantor's parcel) on the Record of Survey.
10. Show a detailed plan of improvements to be constructed or already existing on the easement or lease area. All improvements must be shown in sufficient detail to determine what they are used for and to ensure they are entirely within the easement area.
11. Show the location of any proposed utility.
12. **(linear lease or easement)** Show the lineal footage along the centerline.
13. **(linear lease or easement)** Show the complete alignment information and width including any necessary curve data.

A Record of Survey must (cont.):

14. **(Easements or leases crossing a section line or state ownership boundary, not required for aquatic lands lease across the bed of Puget Sound or the Pacific Ocean)** Provide ties to the centerline of an easement along the section or subdivision line from the nearest appropriate Public Land Survey System (PLSS) section corner, quarter section or subdivision corner, where the easement enters and leaves the section or state ownership.
15. **(Easements or leases falling entirely within one section and not crossing a section line or state ownership boundary)** Provide ties from both end points of the linear easement to PLSS corners or other subdivision corners shall be provided.
16. **(A lease which encroaches on a previously leased site)** Show the boundary for the senior lease in the vicinity of the proposed lease shall also be shown, together with ties between the two leases sufficient to determine the full extent of the encroachments.

Additional Requirements for Communication Site Leases

17. Show ties to the corners of previously monumented communication sites adjacent to, or in the immediate vicinity of the proposed communication site.
18. Show access to the site.
19. Mark the corners of the communication site, as described and granted, with substantial permanent magnetically locatable monuments. The monuments shall be in place and obviously marked on the ground after the construction of installations and improvements.
20. Show the center of any communication site tower by Washington Plane Coordinates, NAD83 (1991), or latitude and longitude. NAD83 datum must be used to determine global location coordinates and must be in **decimal degrees**. Coordinates must have at least **five** decimal places to the right of the decimal point and include a negative longitude.
21. On all communication sites where towers or beam paths are shown, an elevation is required at the base of the tower.
22. Show the tower height, and the height of the antenna or microwave dish and any beam path used shall have the diameter and tilt thereof shown.
23. The elevation shall be derived from an established benchmark in the vicinity of the site, or an elevation designated by the Department of Natural Resources.

Additional Requirements for Aquatic Land Uses

24. The lease of aquatic lands is often subject to preference rights. Applicants and surveyors should carefully determine the direction, and show details of the proration of coves and irregular shoreline.
25. **(lease sites which contain existing or proposed structures and improvements that are classified as a non water-dependent or a water oriented use as described within RCW 79.105.060 and WAC 332-30-106)** Provide the square footage of each structure and improvement.
26. Where applicable, the survey of aquatic lands must show the location of the following lines for:
 - a. Tidal areas –Government meander line, the original and current locations of line of mean high tide, line of mean low tide, and line of extreme low tide. The survey must include the name of tidal bench mark(s) used or describe the alternate method employed for determining a Tidal Datum. **Lease areas which contain tidelands and bedlands** at a minimum must show the location of the line of extreme low tide crossing the lease area. **Lease areas containing bedlands exclusively** may be required to show the relationship to the line of extreme low tide and the -18 foot contour line only.

Additional Requirements for Aquatic Land Uses (cont.):

- b. Lakes – Government meander line, line of ordinary high water (original ordinary high water if the lake has experienced artificial raising or lowering of the water level), and line of ordinary low water (include source of data) and line of navigability if established.
- c. Rivers - Line of ordinary high water and line of ordinary low water (include source of data) and line of navigability if established.
- d. Lots and blocks of platted tide lands or shore lands, inner and outer harbor lines, waterway lines, street boundaries, any local construction limit lines, any dredge or fill areas, and easements of record within the lease site.
- e. All lines must be shown in sufficient detail to compute and show the area of each area of State-owned bedlands, tidelands, shore lands, harbor area, or waterways included within the proposed lease site.

Include any other data necessary for the complete understanding of the information shown on the survey. If, in the opinion of the department, such information is lacking, the survey may be rejected.

Record of Survey Revisions:

- 27. Any differences between the as-built road and the regulation plat must be reflected in a revised Record of Survey and recorded with the county by the applicant.
- 28. When any portion of the completed improvements are located outside of the granted lease site, the as-built locations must be reflected in a revised Record of Survey and legal description. In this instance, a new application for an amended lease site may be required if the as-built location creates adverse impacts. In the case of linear leases across the bed lands of the sound or the ocean, an as-built Record of Survey and a revised legal description of the linear lease must be provided.

Survey Information updated July 2002.

For additional information contact one of the following region offices:

Southeast Region

713 Bowers Rd
Ellensburg, WA 98926-9341
509-925-8510
TTY: 509-925-8527

Northeast Region

P.O. Box 190
225 S Silke Rd
Colville, WA 99114-0190
360-684-7474
TTY: 509-684-7474

Olympic Region

411 Tillicum Ln
Forks, WA 98331-9797
360-374-2800
TTY: 360-374-2819

Pacific Cascade Region

P.O. Box 280
601 Bond Rd
Castle Rock, WA 98611-0280
360-577-2025
TTY: 360-577-2025

Northwest Region

919 N Township St
Sedro-Woolley, WA 98284-9333
360-856-3500
TTY: 360-856-1371

South Puget Sound Region

950 Farman Ave N
Enumclaw, WA 98022-9282
360-825-1631
TTY: 360-825-6381



LINE	LENGTH	BEARING
L1	4.84'	S80°37'14"E
L2	5.30'	N80°43'36"E
L3	8.85'	N70°33'08"E
L4	7.22'	S80°21'16"W

AQUATIC EASEMENT No.	DESCRIPTION:
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THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 23 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 10, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M., SAID POINT BEING A 6" DIAMETER CONCRETE POST WITH A 3" BRASS DISC; THENCE SOUTH 01°44'34" WEST ALONG THE WEST LINE OF SECTION 10, A DISTANCE OF 728.78 FEET; THENCE SOUTH 88°07'15"26" EAST 830.48 FEET TO THE INTERSECTION WITH THE LINE OF SECTION 10, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M.; THENCE ALONG THE VEGETATION ON THE RIGHT BANK OF THE DUMAMISH RIVER AND THE TRUE POINT OF BEGINNING.

THENCE CONTINUING ALONG SAID LINE THE FOLLOWING COURSES AND DISTANCES: SOUTH 80°37'14" EAST, 4.04 FEET; NORTH 80°43'38" EAST, 3.30 FEET; THENCE SOUTH 08°11'11" EAST, ACROSS THE CHANNEL OF SAID RIVER A DISTANCE OF 198.38 FEET TO THE LINE OF VEGETATION ON THE LEFT BANK OF SAID RIVER; THENCE CONTINUING ALONG SAID LINE THE FOLLOWING COURSES AND DISTANCES: NORTH 70°33'06" WEST, 18.85 FEET; SOUTH 88°21'16" WEST, 2.22 FEET; THENCE NORTH 08°11'11" WEST, ACROSS THE CHANNEL OF SAID RIVER 198.37 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1.962 SQUARE FEET, OR ± 0.045 ACRES MORE OR LESS.

HORIZONTAL DATUM:

COORDINATES SHOWN HEREON ARE REFERENCED TO THE WASHINGTON COORDINATE SYSTEM OF 1983 (1991 SUPERNET ADJUSTMENT), NORTH ONE, US FEET.

SURVEY NOTE:

PRIMARY CONTROL POINTS AND MONUMENTED POSITIONS WERE FIELD MEASURED UTILIZING LEITZ SOKKIA ELECTRONIC TOTAL STATIONS (EDM). THIS SURVEY MEETS OR EXCEEDS THE STANDARDS SET BY WAC 332-130-090.

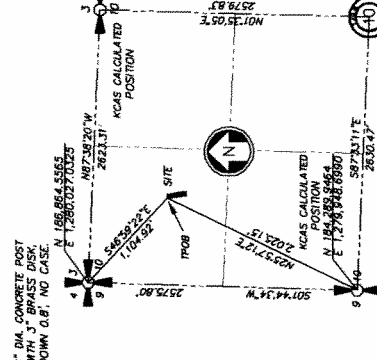
THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON DATE INDICATED AND CAN ONLY BE CONSIDERED

Figure 1. The effect of the number of trials on the number of correct responses. The number of correct responses was significantly higher for the 10-trial condition than for the 5-trial condition. Error bars represent the standard error of the mean.

WOULD BE DISCLOSED BY TITLE REPORT ARE SHOWN.

THIS SURVEY COMPLIES WITH ALL STANDARDS AND GUIDELINES OF THE SURVEY RECORDING ACT CHAPTER 58.09 RCW AND CHAPTER 332-130 WAC.

KING COUNTY SECTION SUBMISSION BREAKDOWN (NW4
0-24-03) : (NOT TO SCALE)



SURVEYOR'S CERTIFICATE
This map correctly represents a survey
by me or under my direction in accordance
with the requirements of the SURVEY RECORDING
Act, 1908, at the request of

in DECEMBER, 2009

CERTIFICATE NO. V6709

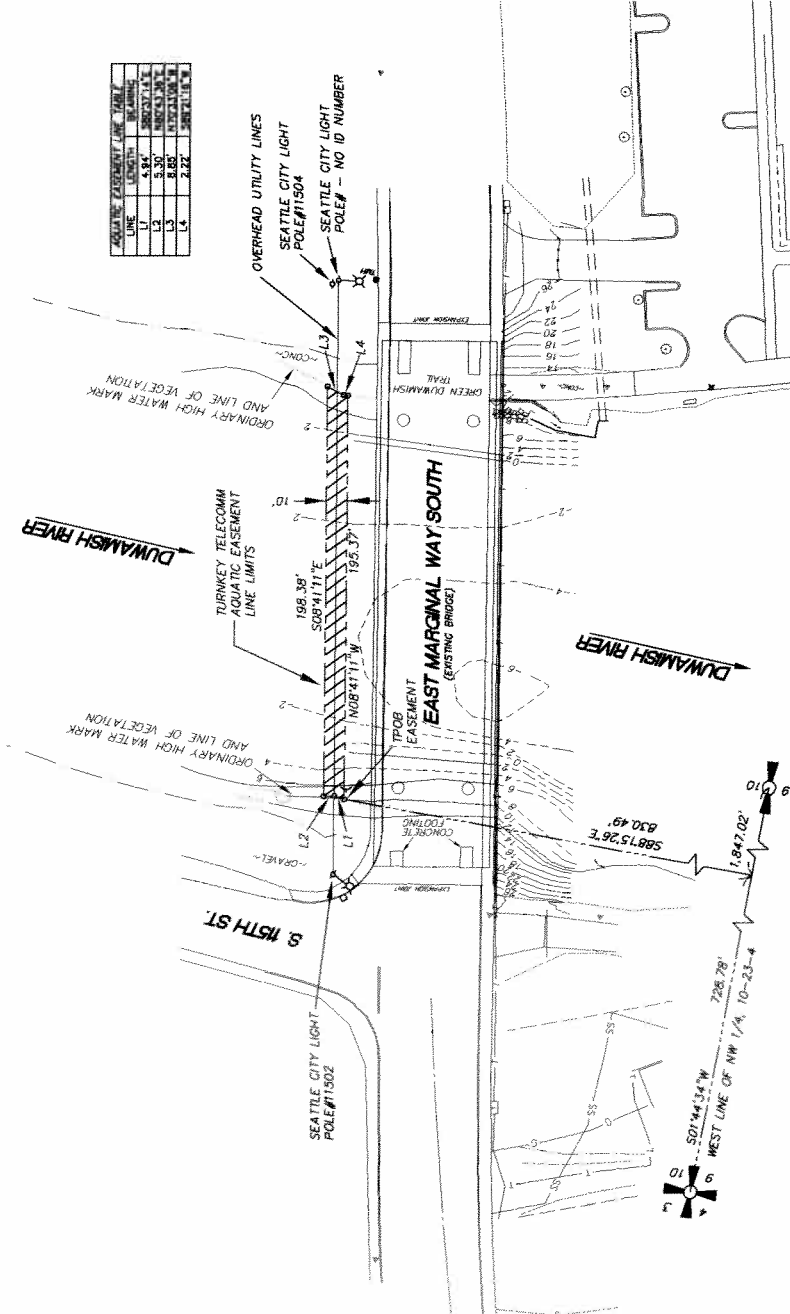


WASHINGTON STATE DEPT. OF NATURAL RESOURCES

AQUATIC EASEMENT No.

FOR

TURNKEY TELECOMM



TIDE PLANES	MLW	NAV08B	NGV029
*Extremest Highest Water	11.0	12.5	9.0
*Mean Higher, High Water	11.1	8.6	5.1
*Mean High Water	10.2	7.7	4.2
*Mean Tide Level	6.45	3.97	0.44
*Mean Low Water	2.7	0.2	-3.1
*Mean Lower Low Water	0.00	-2.48	-6.01
*King of Nations	11.0	8.3	5.0
*Water Surface (1/20 @ 10/20am)	12.4	9.8	6.6
*Water Table (1/20 @ 10/20am)	11.2	8.2	5.1
*Tide Gauge	11.4	8.9	5.4
*Signs (Fog) Erection (1/8/13)	15.4	12.9	9.4

Indicates published tide planes in MLLW from NOAA/NOS (USC&GS)

South), South Park, Washington, North Latitude 47°32.1'; West Longitude 122°49.3'. The Tidal Benchmark was field to NAVD-88 by DHA Surveys on January 27, 2001.

* Indicates field surveyed elevations by DHA at the Duwamish River Bridge.

** Indicates tide planes from NOAA, (HarborTides.com), Tide Table, January 2003 at Duwamish Waterway, 8th Avenue South, Washington.

METHOD OF DETERMINING ORDINARY HIGH WATER

RECEIVED
2034

DOWNSTREAM SIDE OF EAST MARGINAL WAY SOUTH BRIDGE
CITY OF SOUTH 115TH STREET, TUKWILA, WASHINGTON
NW4, NW4, SECTION 10, T23N, R4E, WM

Field surveyed river cross-sections were measured from top of left bank to top of right bank at three locations between the west edge of the bridge and 100 feet downstream thereof. Each cross-section measured the line of vegetation on both banks at six locations. The six points contributed to yield an average elevation of 11.0 (M.L.W.) or 8.5 (N.AVD83) for the line of vegetation.

The East Maryland Way South Bridge is located 3.3 miles south of the East Maryland Way North Bridge on the 8th Avenue South Bridge. Since there was no tidal Benchmark upstream of the bridge, a simultaneous water surface elevation was used as an alternative to the much higher water elevation for the benchmark. On January 27, 2003, simultaneous water surface elevations were measured at the 8th Avenue South Bridge, the East Maryland Way South Bridge and the 8th Avenue South Tidal Benchmark. The elevations measured 12.4 (MLR) at both locations. The following table of tide gauges are provided for the East Maryland Way South Bridge over the Susquehanna River at South 11th Avenue.

DUANE HARTMAN AND ASSOCIATES, INC.

Survivors

6928 WOODVILLE-REDMOND ROAD, B-107
WOODVILLE, WASHINGTON 98072
(425) 482-5558 (425) 483-4650 FAX

RECORDER'S CERTIFICATE

Filed for record this _____ day of _____, 20____ at _____
M., under Recording No. _____

at the request of DUANE HARTMAN & ASSOCIATES, INC.

WALT WASHINGTON
Superintendent of Records

WALT WASHINGTON
Superintendent of Records

WALT WASHINGTON
Superintendent of Records